

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEVEL 3 COMMUNICATIONS, L.L.C. and
MCI COMMUNICATIONS SERVICES, INC.,
d/b/a VERIZON BUSINESS,

Plaintiffs,

-against-

MARINE BULKHEADING, INC.,

Defendants.

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MARINE BULKHEADING, INC.,
Third-Party Plaintiff,

-against-

408-140 GREENWICH STREET LLC, BASILE
BUILDERS SGROUP, INC. and CHAMP
CONSTRUCTION CORP.

Third-Party Defendants.

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Third-Party Defendant, CHAMP CONSTRUCTION CORP., by its attorneys,
WHITE, QUINLAN & STALEY, L.L.P., answering the Third-Party Complaint herein,
respectfully alleges:

1. DENIES any knowledge or information sufficient to form a belief as to the truth
of each and every allegation contained in the paragraph of the Complaint designated 1,
except admits that Greenwich maintained a place of business in New York City, New
York State.

2. DENIES any knowledge or information sufficient to form a belief as to the truth
of each and every allegation contained in the paragraph of the Complaint designated 2.

3. DENIES any knowledge or information sufficient to form a belief as to the truth

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Trial by Jury Demanded

of each and every allegation contained in the paragraph of the Complaint designated 3.

4. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 4.

5. ADMITS each and every allegation contained in the paragraph of the Complaint designated 5 as to third-party defendant, CHAMP CONSTRUCTION CORP.

6. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 6, except admits that third-party defendant, CHAMP CONSTRUCTION CORP., had entered into an agreement relating to excavation within the interior of the premises located at 408 Greenwich Street, New York, New York.

7. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 7, except admit receipt of a copy of the Summons and Complaint.

8. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 8, except admit receipt of a copy of the Answer served on behalf of MARINE BULKHEADING, INC.

9. DENIES upon information and belief each and every allegation of the paragraphs of the Complaint designated 9, except refer the court to the pleadings.

10. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 10.

11. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 11.

12. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 12.

13. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 13.

14. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 14.

15. DENIES each and every allegation contained in the paragraphs of the Third-Party Complaint designated 15.

ANSWERING COUNT I OF THE THIRD-PARTY COMPLAINT

16. The answering third-party defendant, CHAMP CONSTRUCTION CORP., repeats and realleges each and every denial contained in the foregoing Answer with reference to paragraphs of the Third- Party Complaint marked 1 through 15, inclusive, as repeated and reiterated in paragraph designated 16 of the Third-Party Complaint.

17. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 17, and refer all questions of law to the court.

18. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 18, and refer all questions of law to the court.

19. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 19.

20. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 20, and refer all questions of law to the court.

ANSWERING COUNT II OF THE THIRD-PARTY COMPLAINT

21. The Answering Third-Party Defendant, CHAMP CONSTRUCTION CORP., repeats and realleges each and every denial contained in the foregoing Answer with reference to paragraphs of the Third-Party Complaint marked 1 through 20, inclusive, as repeated and reiterated in paragraph designated 21 of the Complaint.

22. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Complaint designated 22.

23. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 23.

24. DENIES any knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in the paragraph of the Third-Party Complaint designated 24.

ANSWERING COUNT III OF THE THIRD-PARTY COMPLAINT

25. The answering Third-Party Defendant, CHAMP CONSTRUCTION CORP., repeats and realleges each and every denial contained in the foregoing Answer with reference to paragraphs of the Third-Party Complaint marked 1 through 24, inclusive, as repeated and reiterated in the paragraph designated 25 of the Third-Party Complaint.

26. DENIES each and every allegation contained in the paragraphs of the Third-Party Complaint designated 26.

27. DENIES each and every allegation contained in the paragraphs of the Third-Party Complaint designated 27.

ANSWERING COUNT IV OF THE THIRD-PARTY COMPLAINT

28. The answering Third-Party Defendant, CHAMP CONSTRUCTION CORP., repeats and realleges each and every denial contained in the foregoing Answer with reference to paragraphs of the Third-Party Complaint marked 1 through 27, inclusive as repeated and reiterated in the paragraph designated 28 of the Third-Party Complaint.

29. DENIES each and every allegation contained in the paragraphs of the Third-Party Complaint designated 29.

30. DENIES each and every allegation contained in the paragraphs of the Third-Party Complaint designated 30.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE
ON BEHALF OF THE THIRD-PARTY DEFENDANT
CHAMP CONSTRUCTION CORP.**

31. That the third-party plaintiff failed to comply with §764 of the General Business Law in that it failed to provide timely notice to the operators who maintain the underground facilities in the area in which the proposed excavation was to take place of the location and date of the proposed excavation.

32. That the third-party plaintiff failed to give timely notice to the one-call notification system of the location and date of the proposed excavation.

33. That the third-party plaintiff failed to verify the location of the underground facilities at the location where it was performing its work in the manner set forth in the rules and regulations adopted by the Public Service Commission pursuant to §119-b of the Public Service Law.

34 That the third-party plaintiff was negligent in commencing its pile driving work without providing the statutory notice of its intention and without obtaining any information regarding the location of the underground facilities in the area in which the pile driving work was to be performed and without taking any measures to protect those underground facilities.

35 That by reason of the defendant/third-party plaintiff's failure to comply with the statutory requirements regarding notification, verification, inspection and protection regarding underground facilities, that the third-party plaintiff was negligent and its negligence was a substantial factor in causing the damage complained of in the plaintiffs' Complaint.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE
ON BEHALF OF THE THIRD-PARTY DEFENDANT
CHAMP CONSTRUCTION CORP.**

36. That the defendant/third-party plaintiff failed to comply with 16 New York Code of Rules and Regulations § 753-3.1 in that it failed to provide notice of the location and date of the planned excavation or demolition to the one-call notification system serving the vicinity in which the excavation was to take place.

37. That the defendant/third-party plaintiff failed to take reasonable precautions to prevent contact or damage to the underground facilities and failed to provide notice of the location and date of the planned excavation to any person or corporation which owned or maintained the underground facilities in the vicinity in which the proposed excavation took place.

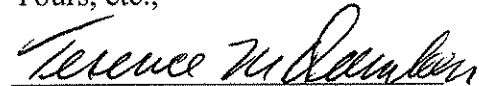
38. That the defendant/third-party plaintiff failed to take reasonable precautions to prevent contact or damage to the plaintiffs' underground facilities prior to the commencement of the excavation or demolition work which it performed.

39. That by reason of the defendant/third-party plaintiff's failure to comply with the regulatory requirements regarding notification, verification, inspection and protection regarding the underground facilities in the vicinity in which the excavation or demolition took place, that the third-party plaintiff was negligent and its negligence was a substantial factor in causing the damage complained of in the plaintiffs' Complaint.

WHEREFORE, the Third-Party Defendant, CHAMP CONSTRUCTION CORP., demands judgment dismissing the Third-Party Complaint, together with the costs and disbursements of this action.

Dated: Garden City, New York
November 29, 2007

Yours, etc.,



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SOUTHERN DISTRICT OF NEW YORK

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